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ARIZONA SUPREME COURT

In the matter of:)	
)	Supreme Court No. R-
PETITION TO AMEND RULE 38(d),)	
)	Petition to Amend Rule 38(d)
RULES OF THE SUPREME COURT)	Rules of the Supreme
)	Court

Pursuant to Rule 28, Rules of the Supreme Court, Paul Bennett respectfully petitions this Court to adopt amendments to Rule 38(d), [Rules of the Supreme Court, governing eligibility for law student limited practice as proposed below:

I. Background and Purpose of the Proposed New Rule.

Rule 38(d) regulates limited practice certification for clinical law professors and law students. Its purpose is “to encourage law schools to provide clinical instruction of varying kinds and to facilitate volunteer opportunities for students in pro bono contexts.” The Rule currently provides that, in order to be eligible for

limited practice certification, law students must, among other requirements, “have successfully completed legal studies amounting to at least three semesters, or the equivalent academic hours” at an accredited law school. Rule 38(d)5.A.i.

This petition seeks to change the Rule in one respect: to allow students to be eligible for limited practice certification after having successfully completed legal studies amounting to at least **two**, rather than three, semesters. A quick review of other states’ requirements reveals a range of up to 4 semesters to as low as two semesters.

Currently, ten states allow students to practice under supervision after completing two semesters of law school: California, Rule 9.42 CA Rules of Court; Connecticut, Section 3-16 CT Superior Court Rules;; Hawaii, Rule 7.3 HI Rules of the Supreme Court; Maryland, Rule 16 Rules Governing Admission to the Bar of Maryland; Massachusetts, Supreme Judicial Court Rule 3:03; Michigan, Rule 8.120 MI Court Rules; Minnesota, Rule 1.02 MN Student Practice Rules; New Mexico, NM Rules Annotated 1-094; New York, N.Y. JUD. LAW § 478, and Oklahoma, Rule 2.1A OK Rules of the Supreme Court on Licensed Legal Internship.

In addition, an eleventh state, Colorado, allows students to practice after two semesters if the students are enrolled in a legal aid clinic maintained by the law

school. C.R.C.P. Rule 205.7. Colorado has a four semester requirement for externships which are not part of a law school clinic.

Lastly, the District of Columbia houses DC Law Students in Court, the nation's largest consortium of law students providing legal representation to indigent communities. DC Law Students in Court is jointly operated by five DC law schools: American University Washington College of Law, The Catholic University of America Columbus School of Law, The George Washington University School of Law, Georgetown University Law Center, and Howard University School of Law. As a result of their efforts, the District of Columbia Courts recently amended its student practice rule to allow students to appear in court after two semesters of law school. District of Columbia, DC Court of Appeals Order No. M-237-10, dated October 2, 2104 amending General Rule 48 effective December 1, 2014.

The proposed change would allow students who otherwise qualify under Rule 38(d) to have an additional semester during which they could participate in clinical legal education. With the current three-semester requirement, students who opt to take the February bar exam during their third year now have one fewer semester to do clinical work. Even though students taking the February bar can and do take some courses in the spring of their third year, including some clinical courses, most law school clinical programs are structured so that students need to

participate at least for a full semester in order to receive a quality clinical learning experience and to adequately represent their clients. Therefore, the added semester would better assure that early bar exam takers would get a clinical experience while in law school.

In addition, for both educational purposes and because of the nature of the legal work being done in law school clinics, some clinics are better suited to be a year-long experience for students instead of a semester. The learning curve in those clinics increases dramatically with two full semesters of participation. The change will facilitate students being better able to participate in a year-long clinic.

Clinical legal education has become an integral part of most law students' education and more students than ever want to participate in one or more clinic experiences while in law school. As a result, the enrollment demand for clinics is quite high. By adding another semester in which students can participate in a clinic would help ensure that clinics can meet student demand. To the extent that some students will participate in additional clinical course work, law students are able to provide additional pro bono services to underserved populations.

Experiential learning has become an important aspect of legal education, starting with the first year of law school. Giving students the opportunity to work on "real" cases with live clients is one of the best experiential learning experiences a law school can provide its students. Representing real clients offers students the

opportunity to learn lawyering skills that are not easily taught in a classroom, to give back to the community, and to more fully understand the values of the profession. It seems that this type of experiential learning should begin as early as feasible in a student's legal education, giving the student as much opportunity as possible to take advantage of such experiences.

II. Contents of the Proposed Rule Amendments.


The proposed amendment is straight-forward. Rule 38(d)(5)(A)(i) would be amended as follows:

“5. A. Law Student Eligibility for Limited Practice Certification. To be eligible to become a certified limited practice student, a law student applicant must:

i. have successfully completed legal studies amounting to at least ~~three~~ two semesters, or the equivalent academic hour credits if the school or the student is on some basis other than a semester, at an accredited law school, or have graduated from an accredited law school, subject to the time limitations set forth in these rules;”

All of the other existing requirements of Rule 38 would remain.

RESPECTFULLY SUBMITTED this 10th day of January, 2015.



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